

AMINI^{LLC}

Jeffrey Chubak
MEMBER NY & NJ BARS

212.497.8247
jchubak@aminillc.com

September 12, 2023

MEMO ENDORSED

By ECF and Email

Hon. Katherine Polk Failla
U.S. District Court for the Southern District of New York
40 Foley Square, Room 2103
New York, NY 10007
Failla_NYSDChambers@nysd.uscourts.gov

Re: INTE Securities, LLC v. Skybell Technologies, Inc., Case No. 1:23-cv-03241
Pre-Motion Submission re: Motion for Prejudgment Discovery and Enforcement

Dear Judge Failla:

We represent the petitioner in this FAA proceeding. We effectuated service of commencement papers (and the order fixing a summary judgment briefing schedule, ECF Doc. #8) in accordance with Rule 4(h)(1), and through the U.S. Marshal under 9 U.S.C. § 9; and we also served a copy of our summary judgment motion papers by mail under Rule 5(b)(2)(C), and by email on respondent's counsel in a state court action commenced earlier this year. (ECF Doc. #9-12, 17.) The respondent has defaulted, and failed to oppose our motion by the June 28, 2023 deadline fixed by the above-referenced order.

We write, pursuant to the Individual Rules of Practice in Civil Cases (¶4.A), to request a pre-motion conference concerning a motion for relief under CPLR 5229, made applicable by Rule 64. The motion would seek leave to serve:

- restraining notices on (a) banks where petitioner believes respondent has banked, under CPLR 5222-A, and (b) law firms that have represented respondent within the past year, under CPLR 5222;
- information subpoenas under CPLR 5224(a)(3) on (a) banks, asking them to indicate the account no. and amount of respondent's funds frozen in response to the restraining notice, and (b) law firms, seeking payment information concerning respondent; and
- document subpoenas on banks under CPLR 5224(a)(2), seeking respondent's bank statements, account opening documentation and copies of checks drawn on its accounts.

There is an urgency to said relief, because respondent has other creditors. Indeed, two actions were commenced against respondent earlier this year in New York County Supreme Court alone.

Hon. Katherine Polk Failla

September 12, 2023

Page 2

OCI Limited v. Skybell Technologies, Inc. et al, 650923/2023; *AKF, Inc. d/b/a FundKite v. Skybell Technologies Inc.* et al. 653171/2023.

CPLR 5229 permits courts to award certain provisional remedies in accordance with state law. *Sequa Capital Corp. v. Nave*, 921 F. Supp. 1072, 1074-76 (S.D.N.Y. 1996); *see also* Siegel, N.Y. Prac. § 516 (6th ed.) (“CPLR 5229 applies in federal practice, too”). “Other than having received a favorable verdict or decision, there are no prerequisites to obtaining the relief provided in CPLR 5229.” *Sequa*, 921 F. Supp. at 1076. An arbitration award qualifies. *Loew v. Kolb*, No. 03-cv-5064, 2003 WL 22077454, at *2 (S.D.N.Y. Sept. 8, 2003).

Respectfully,

/s/ Jeffrey Chubak

cc: Desiree Mejia, [COO, Treasurer and Secretary desiree.meija@skybell.com](mailto:desiree.meija@skybell.com)

The Court is in receipt of Petitioner's above request for a pre-motion conference concerning a motion for relief under CPLR 5229 (Dkt. #18).

The parties are hereby ORDERED to appear for a telephonic conference on Petitioner's anticipated motion on **October 6, 2023, at 12:00 p.m.** At the scheduled date and time, the parties shall call (888) 363-4749 and enter access code 5123533.

Dated: September 25, 2023
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE